



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF APRIL 7, 2003

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-42 People v. Brown, S113929. (B153455; unpublished opinion; Los Angeles County Superior Court; MA022297.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Did the trial court err in admitting expert testimony on Battered Women's Syndrome (BWS) in the absence of evidence establishing that the victim had been subjected to prior instances of domestic abuse?

#03-43 Discover Bank v. Superior Court, S113725. (B161305; 105 Cal.App.4th 326; Los Angeles County Superior Court; BC256167.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate.

#03-44 Mandel v. Household Bank (Nevada) National Association, S113699. (G029531; 105 Cal.App.4th 75; Orange County Superior Court; 00CC12585.) Petition for review after the Court of Appeal reversed the judgment in a civil action.

Discover Bank and Mandel both present the following issue: Does the Federal Arbitration Act (9 U.S.C. § 1 et seq.) preempt a judicial finding that a provision in a mandatory arbitration agreement that provides that each party to the agreement waives any right to bring a class action against the other party is unconscionable under state law?

#03-45 Honeywell v. Workers' Comp. Appeals Bd., S113201. (B156438; 104 Cal.App.4th 829.) Petition for review after the Court of Appeal annulled a

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decision of the Board. This case includes the following issues: (1) What degree of knowledge that an employee has suffered an industrial injury must an employer have in order to trigger the employer's duty to provide the employee with a claim form (Lab. Code, § 5401)? (2) If the employer fails to comply with its statutory duty to provide the claim form, does the 90-day period in which the employer must deny the claim in order to avoid a presumption that the claim is compensable (Lab. Code, § 5402) begin to run at the time the claim form should have been provided or not until the employee actually returns the completed form?

#03-46 Marine Forests Society v. California Coastal Com., S113466. (C038753; 104 Cal.App.4th 1232, mod. 105 Cal.App.4th 773a; Sacramento County Superior Court; 00AS00567.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: (1) Did the former legislative scheme for determining the membership of the California Coastal Commission, under which the Legislature appointed eight members, the Governor appointed four members, and all twelve members served two-year terms at the pleasure of their appointing authority, violate the separation of powers doctrine under the state Constitution (Cal. Const., art. III, § 3)? The court requested additional briefing on the following issues: (2) Assuming the Commission's decision in the present case is constitutionally defective in the manner stated by the Court of Appeal, what is the appropriate remedy available to Marine Forests Society? (3) What effect would the holding of the Court of Appeal have on past and other currently pending decisions of the California Coastal Commission? (4) Does the February 20, 2003 amendment to Public Resources Code section 30312 eliminate the separation-of-powers defect found by the Court of Appeal, or is the composition of the Coastal Commission still vulnerable to a separation-of-powers challenge?

#03-47 Nolan v. City of Anaheim, S113359. (G028272; 104 Cal.App.4th 1170; Orange County Superior Court; 00CC03056.) Petition for review after the Court of Appeal reversed the judgment in an action for administrative mandamus. This case presents the following issue: Was the plaintiff, a police officer seeking permanent disability retirement benefits on the ground that alleged threats and harassment from

other officers rendered him “incapacitated . . . mentally for the performance of his . . . duties in the state service” (Gov. Code, § 21156), required to demonstrate only an incapacity to function in the police department that had employed him, or an incapacity to function in a similar position anywhere in the state?

#03-48 Northwest Airlines, Inc. v. Ontario Aircraft Services, Inc., S113305. (B156158; 104 Cal.App.4th 1053; Los Angeles County Superior Court; BC260864.)
Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Does an insurer’s failure to comply with a regulation requiring it to inform a third party claimant of the statutory time limits applicable to a claim estop its insured from relying on the applicable statute of limitations to defend against the third party’s claim?

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